

REMARKS

Upon entry of the instant Amendment, Claims 1-17 are pending. The Specification and Drawings have been amended to correct various informalities. No new matter has been added. Claims 4, 8, 12, and 16 have been amended to overcome the Section 112 rejections. Claims 1, 5, 9, 13, and 17 have been amended to more particularly point out Applicant's invention. Claims 2, 6, 10, and 14 have been amended into independent form including the limitations of the original base claims.

The drawings were objected to because of incorrect reference numeral. The drawings have been amended to correct the reference numeral. No new matter has been added. The drawings were additionally objected to because the feature "a portal imaging device deployed between a patient and a radiation source" was indicated to not be shown. This recitation has been deleted from the claims. Thus, the objection is obviated.

The Specification was objected to because of various informalities. In particular, absence of the serial number to the cross referenced application, as well as various capitalized reference numerals was objected to. The Specification has been amended to provide the serial number. Either the Drawings or the Specification have been amended to correct the reference numerals. No new matter has been added.

Claims 8, 11, 12, 15, and 16 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 8, 12, and 16, it was alleged to be unclear as to how the imaging device is positioned between a patient and a radiation source while being deployed beneath the patient plane. This recitation has been deleted from the claims. In claims 11 and 15, it was alleged to be "unclear as to how the imaging panel is positioned above the patient plane." Applicant respectfully submits that it is clear from the figures and accompanying description, e.g., FIG. 4, 9, 11, 13, and 14, that the imaging panel can be raised and lowered, including above the

patient plane. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 1, 2, 5, 6, 9, 10, 13, 14, and 17 were rejected under 35 U.S.C. 102(b) as being by Kalend et al., U.S. Patent No. 5,784,431 ("Kalend"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Kalend.

As described in the Specification, a radiation therapy device according to an embodiment of the present invention includes a linear accelerator for providing radiation to a body; and an electronic portal imaging device operably coupled to the linear accelerator. The electronic portal imaging device is adapted for use in commissioning the radiation therapy device and adapted for use in dosimetry applications during therapy. The electronic portal imaging device can be moved to various positions above, below, and through the patient plane during commissioning. Typically, during treatment, the device is positioned below the patient plane. Claims 1, 5, 9, 13, and 17 have been amended to recite "wherein said electronic portal imaging device is adjustable through a patient plane."

In contrast, while Kalend provides for a simulation image and a treatment image, its x-ray film 23 appears to remain fixed below the patient plane. Kalend is thus representative of a problem solved by the present invention, which allows the portal imaging device to move through the patient plane during commissioning, thereby allowing relatively more accurate commissioning. Similarly, claims 2, 6, 10, and 14 each recite that the portal imaging device may be positioned in the patient plane during commissioning. Again, Kalend shows only the x-ray film 23 below the patient plane. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 1, 2, 5, 6, 9, 10, 13, 14, and 17 were rejected under 35 U.S.C. 102(b) as being by Hughes, U.S. Patent No. 5,754,622 ("Hughes"). In order for there to be

anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Hughes.

Similar to Kalend, Hughes provides for an imaging device that remains below an object. It does not appear to be adjustable through a patient plane, e.g., during device commissioning, as recited in claims 1, 5, 9, 13, and 17, or at a patient plane during commissioning, as recited in claims 2, 6, 10, and 14. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 3, 4, 7, 8, 11, 12, 15, and 16 were rejected under 35 U.S.C. 103 as being unpatentable over Kalend or Hughes in view of Barnea, U.S. Patent No. 5,233,990 ("Barnea"). Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Hughes, Kalend, or Barnea, either singly or in combination. Barnea is relied on for allegedly teaching positioning the imaging device between the source and the patient. However, like Hughes and Kalend, Barnea does not appear to be adjustable at a patient plane during commissioning, as generally recited in the claims at issue. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

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For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

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